



RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL

Nov 27 2 43 PM '00

OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

Jim Ryan

ATTORNEY GENERAL

November 21, 2000

Donald E. Campbell
Federal Election Commission
Office of General Counsel
999 E Street, NW
Washington, DC 20463

Re: MUR 5127

Dear Mr. Campbell:

The Federal Election Commission letter of November 1, 2000 directed to Attorney General Jim Ryan was received by the Attorney General's Office on November 6, 2000. This letter is in response to the request for legal and factual materials relevant to the Commission's analysis of this matter.

The complaint, filed by Bradley D. Goodrich on behalf of the Republican Party of Illinois, alleges one paragraph of "facts" concerning amounts paid to Timothy Mapes as the Executive Director of the Democratic Party of Illinois. At this time the Attorney General's Office lacks knowledge of facts sufficient to form a belief as to the truth or falsity of the allegations of the complaint.

The Federal Election Commission letter states that the complaint filed by Mr. Goodrich indicates that the State of Illinois may have violated the Federal Election Campaign Act of 1971. However, the complaint names only the Democratic Party of Illinois as Respondent, and not the State of Illinois. The relief requested is an investigation of the Democratic Party of Illinois and a finding that the party has violated 2 U.S.C. section 441(a) of the Federal Election Campaign Act. Because the State of Illinois is not named as a Respondent in the complaint, and no relief is sought against the State, no further action should be taken against the State of Illinois.

Donald E. Campbell
Federal Election Commission
Page 2

Assuming that the Commission is correct in construing this complaint as alleging a violation of the Federal Election Campaign Act by the State of Illinois, we respectfully disagree with the Complainant's position that the State is considered a "person" under the Federal Election Campaign Act of 1971. The law on that point is far from settled. The complaint refers to advisory opinions of the Federal Election Commission which stand for the proposition that the Commission has not extended to the states the exclusion from the Act's coverage provided to the federal government. These opinions do not, however, offer any support for the proposition urged by the complaint that the State is to be considered a "person" under the Act. Such an interpretation is contrary to the analysis evidenced in *Atascadero State Hospital v. Scanlon*, 473 U.S. 234 (1985) and *Will v. Michigan Department of State Police*, 491 U.S. 58 (1989). Moreover, it is not consistent with the Act itself, which provides separate and distinct definitions for the terms "person" and "state." See 2 U.S.C. §§ 431(11) and (12). Consequently, the State of Illinois is not properly considered a "person" under the Act, and the Commission should take no action against the State of Illinois in this matter.

Finally, should the Commission find that payments were made to the Democratic Party of Illinois in violation of the Act, we respectfully request reimbursement to the State of Illinois by the Democratic Party (See complaint p. 3).

Should you have questions or need further assistance in this matter, please contact me at (217) 782-1841. As there was no designation of counsel form included with the information received from the Federal Election Commission, please consider this letter authorization to send any notifications and other communications from the Commission to Sarah Pratt at the address below. Thank you.

Very truly yours,



Sarah L. Pratt
Assistant Attorney General
Bureau Chief, General Law
500 South Second Street
Springfield, IL 62706

SLP/lfb